IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1482 of 2000

to

FIRST APPEALNo 1502 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT THRO' SPECIAL LAND ACQUISITION OFFICER

Versus

LALITABEN WD/O GORDHANBHAI DECD. THRO' HEIR SHAMBHUBHAI

Appearance:

MR AD OZA, GP with MR UMESH TRIVEDI, AGP for Appellant

MR PRASHANT MANKAD for Respondents claimants

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE J.R.VORA

Date of decision: 20/02/2001

COMMON ORAL JUDGEMENT (Per : MR.JUSTICE M.R.CALLA)

1. All these Appeals u/s 54 of the Land Acquisition Act r/w Sec. 96 of the Civil Procedure Code are directed against the judgment and order dated 15th October, 1999

passed by the 8th Jt. Civil Judge (CD), Vadodara, in Land Acquisition Reference Cases No. 57/98 to 77/98 as a common order. Since this group of First Appeals are directed against the common judgment and order dated 15.10.1999 and the same have been heard together and they involve common questions, we propose to decide all these First Appeals by this Common Judgment and Order as under.

2. Lands of village Lakodara Miyagam minor were sought to be acquired for Naramada Scheme. For that purpose, first the Notification u/s 4 was issued on 3rd October, 1994 and Notification u/s 6 was issued on 15th February, 1996. The Land Acquisition Officer by its order dated 9th April, 1997 decided the rate of compensation to be paid to the claimants at Rs. 8.25ps per sq.meter in respect of the irrigated lands and Rs.5.50 per sq. meter for non-irrigated lands. Aggrieved from the order passed in the Land Acquisition Cases as above, the claimants took the matter in Reference u/s 18 of the Land Acquisition Act, and the Reference Court by its order dated 15th October, 1999 decided the Reference Cases fixing the rate of compensation to be paid at Rs. 33.30 per sq. meter. The challenge of the present appellant in these Appeals is that the Reference Court has proceeded to decide the rate of compensation at Rs. 33.30 per sq. meter on the basis of the yield and the previous award Exh. 17 which was on record was not relied upon. According to the

previous award, the rate of compensation should have been fixed at Rs. 22.50 per sq.meter on the basis of the 10% increase every year keeping in view the date of the issuance of Notification u/s 4 in the case of Exh. 17 which was 1.11.1989. In the case of previous award the rate of compensation was fixed at Rs. 13.90 per sq. meter. Even if the 10% increase had to be given for the period of 5 years because of the issuance of notification

u/s 4 being 3.10.1994 in these cases and 1.11.1989 in the case of Exh. 17 i.e. previous award, the rate of compensation does not exceed Rs. 22.50 per sq.meter. This argument made by the learned AGP is not without force and deserves to be accepted in the facts of the case. So far as the yield is concerned, no evidence whatsoever was lodged except the bald submissions which were made in this regard and in absence of any cogent evidence with regard to the yield, the same could not be made the basis for the purpose of passing the award in the present cases more particularly when the previous award in which the lands of the adjoining villages were the subject matter of the acquisition, the quality of the two lands being identical was considered. We, therefore, find that the impugned award passed in these cases deserves to be modified so as to reduce the rate of compensation payable to the claimants at Rs. 22.50 per sq. meter instead of Rs. 33.30 per sq. meter. The Award shall stand modified accordingly to this limited extent only

3. All these 21 Appeals are hereby partly allowed as above. The decree be drawn accordingly. It is expected that the due amount of compensation shall be paid to the claimants within a period of three months from the date of the certified copy of this order is served on the concerned authorities by either of the parties. No order as to costs.

(M.R. Calla, J.)

(J.R. Vora, J.)

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